

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Order Instituting Investigation on the Commission's Own Motion Into the Operations and Practices of Wine & Roses Limousine Service, a California Corporation, doing business as AA Limousine, AAA Limousine, Espresso Limousine, Espresso Transportation, AAA Corporate Limousines, Total Transportation Network (TTN), and LaGrande Affaire (PSG-12361-P-B), and its President, Steve Bonner, to Determine Whether They Have Violated the Laws, Rules, and Regulations Governing the Manner in Which Charter-Party Carriers Conduct Operations and Whether They are Fit to Continue to Conduct Passenger Transportation Service.

Investigation 05-06-042
(Filed June 30, 2005)

**OPINION SUSPENDING CLASS P
CHARTER PERMIT, PSG 12361-P-B**

Summary

This decision suspends respondents' authority to conduct passenger transportation services effective immediately.

Background

On June 30, 2005, the Commission opened this investigation to determine whether sufficient evidence exists to order the immediate suspension of respondents' charter-party carrier authority. The Commission ordered that a

prehearing conference be scheduled within 40 days, with hearings as soon as practicable thereafter.

As set forth in the Commission's opening order, staff has conducted a thorough investigation of respondents' operations, including regulatory and legal history. Staff specified 305 violations of the Public Utilities Code and our regulations, as well as the California Vehicle Code. These include allegations of operating after suspension and revocation of permit, failing to have required insurance, and employment of drivers without proper California driver licenses.

Consistent with the Commission's direction for an expeditious hearing process, a prehearing conference was scheduled for Tuesday, July 19, 2005. Respondents were also ordered to file and serve a response to staff's allegations that would specify which, if any, of staff's allegations respondents dispute, and describe the evidence respondents would produce at hearing in support of their position.

On July 11, 2005, respondents' staff notified the assigned Administrative Law Judge (ALJ) that Steve Bonner was out of the country, and that he required additional time to obtain legal counsel. With the concurrence of respondents, the prehearing conference was rescheduled for August 23, 2005, and the date for filing the response to staff reset to August 19, 2005.

Respondents failed to appear at the August 23, 2005, prehearing conference without explanation. Staff telephoned respondents' office but reached only a voicemail recording. The Assigned Commissioner and ALJ convened the prehearing conference and received staff's exhibits into the record. The prehearing conference was adjourned 18 minutes after the hour set for the prehearing conference to begin.

Due to respondents' failure to appear, and the public safety implications of the staff's allegations, the assigned ALJ and Commissioner decided that respondents' operating authority should be suspended at the earliest opportunity. They also adopted the following schedule to receive further remedial recommendations from staff:

| | |
|--------------------------------------|--------------------|
| Staff File and Serve Recommendations | September 16, 2005 |
| Respondents File and Serve Response | September 23, 2005 |

In addition to fines and other penalties available from this Commission, staff should also consider further proceedings in state court to ensure that respondents comply with the permit suspension, which may require having respondents' equipment impounded, among other things.

Discussion

Pursuant to § 5378,¹ the Commission may "cancel, revoke, or suspend any operating permit or certificate" for, among other things, violations of the applicable provisions of the public utilities code, the vehicle code, and associated regulations. Here, the record contains uncontested evidence of 305 such violations. Many of the alleged violations implicate public safety by, for example, failing to provide for duly licensed and drug and alcohol-free drivers.

Based on the record evidence, the public interest requires that respondents' operating authority, PSG-12361-P-B, be suspended immediately.

¹ All citations are to the Public Utilities Code unless otherwise indicated.

Need for a Hearing

There are no disputed issues of material fact and, therefore, no hearing is necessary.

Waiver of Comments on Draft Decision

Pursuant to Rule 77.7(f)(9) of the Commission's Rules of Practice and Procedure, we find that the otherwise applicable 30-day comment period on this decision should be waived because the delay will cause significant harm to public health or welfare.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Maribeth A. Bushey is the assigned Administrative Law Judge.

Findings of Fact

1. The record shows uncontested evidence of 305 violations of law and regulations applicable to charter party carriers by respondents.
2. Respondents failed to timely file their response to staff's allegations, or to appear at the prehearing conference, which had been reset to accommodate their schedule.
3. The evidence shows on-going violations that adversely impact public safety.

Conclusions of Law

1. Respondents have not disputed staff's allegations.
2. The record shows violations of the Public Utilities Code, the Vehicle Code, and related regulations sufficient to support suspension pursuant to § 5378.
3. Respondents' operating authority should be suspended immediately.
4. To protect public safety, this suspension order should be effective immediately.

5. Pursuant to Rule 77.7(f)(9), comment on the draft decision should be waived.

O R D E R

IT IS ORDERED that:

1. Charter Party Permit PSG-12361-P-B is suspended. Respondents shall cease and desist from providing passenger transportation services.
2. The Commission staff shall take all necessary actions to ensure that respondents comply with Ordering Paragraph 1.
3. The Commission staff and respondents shall abide by the schedule set above to make further recommendations to the Commission.
4. No hearing is necessary.
5. The comment period on the draft decision is waived.

This order is effective today.

Dated _____, at San Francisco, California.